

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0409P

**Individual Income Tax
Calendar Year 1997**

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ISSUE(S)

I. Tax Administration – Late payment penalty

Authority: IC 6-8.1-10-2; 45 IAC 15-11-2

Taxpayer protests the penalty assessed for the late filing of its return.

STATEMENT OF FACTS

Taxpayer, in a letter dated July 7, 1999 protested the late filing penalty because it had not received a K-1 on the Indiana Partnership until after the filing deadline.

I. Tax Administration – Penalty

DISCUSSION

At issue is whether the taxpayer had reasonable cause in not submitting a timely filed tax return.

Taxpayer made no payments until after the due date of the return. Taxpayer states it had not received a K-1 on the Indiana partnership until after the filing deadline and the partnership has had losses for several years. Taxpayer filed its return on September 30, 1998 with payment of tax due shown on the return.

IC 6-8.1-10-2 (a) states:

If a person fails to file a return for any of the listed taxes or fails to pay the full amount of tax shown on his return on or before the due date for the return or payment, incurs, upon examination by the department, a deficiency which is due to negligence, or fails to timely remit any tax held in trust for the state, the person is subject to a penalty.

IC 6-8.1-6-1(c) states:

If the Internal Revenue Service allows a person an extension on his federal Income tax return, the corresponding due dates for the person's Indiana income Tax returns are automatically extended for the same period as the federal extension, plus thirty (30) days. However, the person must pay at least ninety percent (90%) of the Indiana income tax that is reasonably expected to be due on the original due date by that due date, or he may be subject to the penalties imposed for failure to pay the tax.

The federal returns indicate that the property that generated the Indiana income was sold in 1997. Taxpayer should have remitted at least ninety percent (90%) of the tax due by April 15, 1998. Communication problems between the general and limited partners is not reasonable cause for failing to pay the tax due timely.

FINDING

Taxpayer's protest is denied.